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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/630,627  | 07/29/2003  | Joseph C. Maley      | ACRY4.CIP           | 9066             |
| 6980  | 7590        | 08/24/2006           | EXAMINER            |                  |
| TROUTMAN SANDERS LLP<br>600 PEACHTREE STREET, NE<br>ATLANTA, GA 30308 |             |                      | AHMED, HASAN SYED   |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |

1615

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/630,627             | MALEY ET AL.        |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Hasan S. Ahmed         | 1615                |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 11-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/23/06</u>   | 6) <input type="checkbox"/> Other: ____.                                    |

### **DETAILED ACTION**

Receipt is acknowledged of Applicants' IDS filed on 23 April 2004 and Response to Restriction Requirement filed on 23 June 2006.

#### ***Election/Restrictions***

Applicant's election with traverse of Group II in the reply filed on 23 June 2006 is acknowledged. The traversal is on the ground that search of all originally filed claims would not place and undue burden on the Examiner. This is not found persuasive because limitations found in Groups I and III would require additional searches which are not required for Group II.

The requirement is still deemed proper and is therefore made FINAL.

Claims 1-10 and 18-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to nonelected groups, there being no allowable generic or linking claim. Applicant timely traversed the restriction requirement in the reply filed on 23 June 2006.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 11-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Asmus (U.S. Patent No. 5,270,358).

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Asmus discloses a transdermal composition comprising a matrix (see col.2, lines 32-38). The disclosed matrix is the instant matrix as claimed:

- the matrix material (e.g. polyacrylamide) of instant claim 11 (see col. 6, line 66);
- the active agent of instant claim 11 (see col. 12, lines 12-26);
- the humectant (e.g. glycerol) of instant claim 11 (see col. 9, lines 61-62);
- the moisture content of instant claim 11 (see col. 3, line 10; examples 87 and 88);
- the moisture management system (as disclosed in pages 23-24 of the Specification, *i.e.* guar gum) of instant claim 12 (see col. 6, line 68);
- the attachment element (adhesive) of instant claim 13 (see col.2, lines 32-38);
- the polyacrylamide of instant claim 14 (see col. 6, line 66);
- the antibacterial (antimicrobial) compounds of instant claim 15 (see col. 12, lines 12-26);
- the glycerol of instant claim 16 (see col. 9, lines 61-62); and
- the moisture content of instant claim 17 (see col. 3, line 10; examples 87 and 88).

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hasan S. Ahmed whose telephone number is 571-272-4792. The examiner can normally be reached on 9am - 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Woodward can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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**MICHAEL P. WOODWARD**  
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